WP(C) 4829/2006

BEFORE

THE HON'BLE MR. JUSTICE B.K.SHARMA

Heard Mr. J. Roy, learned counsel for the petitioner as well as Mr. U. Bhuyan, learned counsel representing the Respondent No.6. I have also heard Ms R. Chakraborty, learned State counsel representing the official respondents.

The petitioner is aggrieved by the action of the office of the Pachim Chaygaon Gaon Panchayat in issuing the license to the Respondent No.6 for running the market called Bhabanipur Cattle Market. While according to the Respondent No.6, such license can be granted by the Gaon Panchayat in respect of the market managed by the person concerned over his own plot of land, it is the case of the petitioner that as per the provisions of the Assam Panchayat Act, 1994, no such license can be granted to run any market merely on the ground that the market is situated on private land. In this connection, the petitioner has referred to Annexure-5 letter dated 15.7.2006 by which the grievance raised in this regard was forwarded to the Director of Panchaya and Rural Development Department, Assam. In the letter, it was stated that the license was issued by the Gaon Panchayat without approval of the President and Panchayat body violating the provisions of the Act.

The period for which the license was granted is going to be over on 30.6.2007. Since the period is almost at the verge of completion, Mr. Roy, learned counsel for the petitioner submits that while not disturbing the arrangement, the respondents should adhere to the provisions of the Act and the Rules framed there-under towards settlement of the market. On the other hand, Mr. Bhuyan, learned counsel for the Respondent No.6 submits that since the market is a privately managed one, there is no question of settlement of the same through the tender system and that the Respondent No.6 is entitled to run the same on the basis of the license granted to him from time to time. In this connection, Mr. Bhuyan, learned counsel for the Respondent No.6 has referred to the letter issued by the Chief Executive Officer of the Zilla Parishad dated 21.6.2006 by which a direction was issued to the Secretary of the Gaon Panchayat to issue the license.

However, Mr. Roy, learned counsel for the petitioner submits that in the letter, it has been wrongly stated that the said license was issued as per the provisions of the Act. According to him, there is no such provisions to issue the license.

Without expressing any opinion on the merit of the case, I remit the matter back to the Commissioner & Secretary to the Government of Assam in the Panchayat and Rural Development Department to resolve the issue taking into consideration all the relevant factors including the provisions of the Act. If need be, the parties may be given personal hearing. Since the next settlement period is round the corner (01.07,2007), it will be appropriate for the State Government to take a decision in the matter on or before the said target date. Parties may obtain certified copy of this order and produce the same before the said Commissioner & Secretary for his necessary action.

Writ petition is disposed of.